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S.B. CIVIL WRIT PETITION NO.4224/2003.
Durga Lal Mathur
Vs.
State of Rajasthan & Ors.

Date of Order :: 11th October 2007.

HON'BLE MR. JUSTICE DINESH MAHESHWARI

Mr. Nitin Trivedi, for the petitioner.
Mr. Rameshwar Dave, Dy.G.A., for the respondents.

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BY THE COURT:

Though listed for orders on an application seeking early hearing, at the request and with the consent of the learned counsel for the parties, having regard to a short point involved, the matter has been heard finally; and, having heard learned counsel for the parties and having perused the material placed on record, this Court is of opinion that the present litigation remains rather an unnecessary one.

By way of this writ petition, the petitioner has challenged the order dated 22.07.2003 (Annex.13) issued by the Deputy Secretary to the Government in its Irrigation Department whereby an order dated 21.02.1998 (Annex.7) that was issued for regularisation of services of three incumbents namely, Sarva Shri Seva Singh, Nirver Singh, and Ramesh Kant

Shrimali as Junior Research Assistants from the date of their initial appointment has been withdrawn; and thereafter it is required of the Department that whatever orders/directions/seniority-lists were issued in pursuance of the said order dated 21.02.1998, the same may also be withdrawn. The grievance of the petitioner is that only after passing of the said order dated 21.02.1998, the revised seniority list Annexure-8 was issued on 22.07.1998; and, if the said order is withdrawn as such, wherein regularisation order made earlier in relation to the petitioner is also referred, the same might cause him prejudice.

This Court admitted this writ petition on 11.08.2003 and operation of the impugned order (Annex.13) was ordered to be stayed. The interim order came to be confirmed by this Court on 13.05.2004; and thereafter an application for vacating the stay order was rejected as not maintainable on 08.09.2005 for the interim order having already been confirmed.

The respondents have submitted reply to the writ petition and while stating that the impugned order dated 22.07.2003 does not relate to the petitioner at all, have raised the objection that the petitioner does not have any locus standi to challenge the said order. It is stated and reiterated in the reply that,-

> "18. That the averments contained in para 18 of the writ petition are not admitted and hence

> denied. It is submitted that the writ petition filed by the petitioner is absolutely misconceived. The order dtd. 22.7.2003 does not relate to the petitioner and hence the petitioner is not at all aggrieved by the order dt. 22.7.2003 and the writ petition filed by the petitioner at the instance of the petitioner is not maintainable."

The learned Deputy Government Advocate Mr. Rameshwar Dave submitted that the petitioner is not at all affected by the impugned order dated 22.07.2003 that has been made in relation to the incumbents named therein and the petitioner has unnecessarily filed this writ petition and because of the interim order made in this writ petition, the entire proceedings in relation to the promotion of the incumbents remains stand-still. Learned counsel Mr. Nitin Trivedi appearing for the petitioner submitted that the petitioner has not filed this writ petition without genuine apprehension and has pointed out that the revised seniority list (Annex.8) was issued on 22.07.1998 only after passing of the order dated 21.02.1998 that has been ordered to be withdrawn by the impugned order dated 22.07.2003; and by such revised seniority list dated 22.07.1998 finally the name of the petitioner came to be included at serial number 12(C). Learned counsel pointed out that the order dated 21.02.1998 refers to the regularisation order in relation to the petitioner and another similarly situated incumbent Ranjeet Singh also.

Having given a thoughtful consideration to the submissions made by the learned counsel for the parties and having examined the matter in its totality, this Court is clearly of opinion that in essence this writ petition remains an unnecessary litigation but the petitioner alone cannot be faulted for the same.

The impugned order dated 22.07.2003 (Annex.13) reads as under:-

> "इस विभाग के समक्षक पत्र दिनांक 21.02.98 द्वारा सर्व श्री सेवा सिंह, निरवेर सिंह एव रमेश कान्त श्रीमाली कनिष्ठ अनुसंधान सहायकों को प्रथम नियुक्ति तिथि से नियमन किये जाने की स्वीकृति प्रदान की गई थी, जो तुरन्त प्रभाव से निरस्त (Withdraw) किया जाता है ।
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> ये स्वीकृति दिनांक 21.02.98 की अनुपालना में आप द्वारा जो भी आदेश / निर्देश / वरिष्ठता सुची आदि जारी की गई है उन्हे अविलम्ब निरस्त (Withdraw) किये जाने की व्यवस्था करें ।
>
> ये आदेश कार्मिक क 2 विभाग के अपनी आरडी क्रमांक 2205 / कार्मिक क 3 दिनांक 8.12.99 द्वारा प्राप्त सहमति के आधार पर जारी किया जा रहा है ।
>
> कृपया इस पत्र की प्राप्ति स्वीकृति भिजवाऐं ।"

Thus, it was required by the order aforesaid that any seniority list issued in pursuance of the order dated 21.02.1998 be withdrawn. The order dated 21.02.1998 (Annex.7), apart from allowing regularisation of the said three

incumbents under Rule 5 of the Rajasthan Subordinate Services (Irrigation) Rules, 1967, does also refer to the cases of Durga Lal Mathur (the petitioner) and Ranjeet Singh who were also not appointed by the competent authority but were regularised by an order issued on 20.09.1991. It remains undeniable a fact that the revised seniority list (Annex.8) was issued only after passing of the order dated 21.02.1998 and rather as a consequence thereof. In the fact situation of the case and for the phraseology used in the impugned order dated 22.07.2003 (Annex.13), the apprehension of the petitioner of likelihood of adverse effect on his rights cannot be said to be totally baseless.

However, a close look at the order dated 22.07.2003 (Annex.13) makes it clear that the said order had been issued only in relation to the three incumbents named therein; and it goes without saying that the said order has not been made in relation to the petitioner at all. The case of the petitioner was cited only as an example in the order dated 21.02.1998 and else, the said order dated 21.02.1998 had not been made in relation to the petitioner whose regularisation had already been ordered as back as on 20.09.1991. Moreover, it stands now more than clear from the reply submissions of the respondents that the impugned order dated 22.07.2003 has not been issued in relation to the petitioner; and the petitioner

is not affected wherefrom.

In view of the aforementioned position, there appears no reason or cause to continue with this writ petition and it cannot be said that the petitioner has any subsisting cause of action so as to continue with this writ petition.

For the facts and reasons noticed above, the writ petition remains bereft of cause of action and is rejected, of course, with the observations aforesaid. The interim order dated 11.08.2003 that was confirmed till disposal of this writ petition stands vacated. No costs.

(DINESH MAHESHWARI), J.

[Mohan]